

United States District Court
Central District of California

LOVADA WORKMAN,
Plaintiff,

v.

DEARBORN NATIONAL LIFE
INSURANCE COMPANY,
Defendants.

Case No. 2:17-cv-04515-ODW (SSx)

**ORDER DENYING DEFENDANT'S
MOTION FOR ATTORNEY FEES
AND NON-TAXABLE COSTS
WITHOUT PREJUDICE [59]**

Following the Court's entry of judgment (ECF No. 58), Defendant moved to recover their attorneys' fees. (*See* Def.'s Mot. for Att'y Fees, ECF No. 59.) Subsequently, Plaintiff filed a notice of appeal to the Ninth Circuit (ECF No. 61).¹

When an appeal on the merits is filed, a district court has discretion to rule on a claim for fees, defer its ruling on the motion, or deny the motion without prejudice and direct a new filing period for filing after the claim has been resolved. Fed. R. Civ. P. 54(d)(2), Advisory Committee Notes (1993 Amendment); *Dufour v. Allen*, No. 2:14-cv-5616 CA (SSx), 2015 WL 12819170, at *2 (C.D. Cal. Jan. 26, 2015) ("[A] district court has the discretion to defer consideration of an attorneys' fee

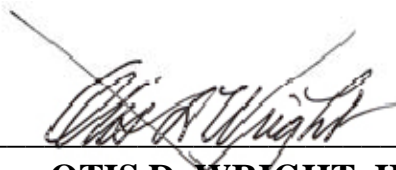
¹ After carefully considering the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 motion until resolution of the underlying case's appeal."). "Particularly if the claim
2 for fees involves substantial issues or is likely to be affected by the appellate decision,
3 the district court may prefer to defer consideration of the claim for fees until after the
4 appeal is resolved." Fed. R. Civ. P. 58, Advisory Committee Notes (1993
5 Amendment). "District courts have exercised their discretion to defer ruling on a
6 motion for attorneys' fees, or to deny the motion without prejudice to being renewed
7 following disposition of the appeal." *Pacing Techs., LLC v. Garmin Int'l, Inc.*,
8 No. 12-cv-1067-BEN (JLB), 2014 WL 2872219, at *2 (S.D. Cal. June 24, 2014).

9 Given the nature of Plaintiff's appeal, and upon consideration of Defendant's
10 Motions for Attorney Fees (ECF No. 59), the Court **DENIES WITHOUT**
11 **PREJUDICE** Defendant's Motion. If appropriate, Parties may renew their motions
12 **within 30 days of the entry of the Ninth Circuit's Mandate on the pending**
13 **appeal.**

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15 **IT IS SO ORDERED.**

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17 March 3, 2020

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20 **OTIS D. WRIGHT, II**
21 **UNITED STATES DISTRICT JUDGE**
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